IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

:::

JUDGMENT

Chand Ratan
vs.
Hari Krishna.

S.B.CIVIL SECOND APPEAL NO.249/2004 UNDER SECTION 100 CPC AGAINST THE JUDGMENT AND DECREE DATED 1.6.2004 PASSED BY SHRI ABDUL KALAM DHERA, ADDITIONAL DISTRICT JUDGE NO.1, BIKANER IN CIVIL APPEAL NO.7/2002.

DATE OF JUDGMENT ::: 13.4.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. J Chopra, for the appellant.
Mr. S Singh a/w Mr.MS Panwar, for the respondent.

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BY THE COURT:

Heard learned counsel for the parties and perused the record.

After going through the reasons given in the impugned judgments of the two courts below, this Court is also of the view that the plaintiff fully proved his need. The

alternate accommodation suggested by the appellant/tenant is in the basement and two courts below rightly held that the basement cannot be used for running the shop of the nature which the plaintiff wanted to do.

In view of the above, I do not find that any substantial question of law arises in this appeal, therefore, this appeal deserves to be dismissed.

At this stage, learned counsel for the appellant prayed that sufficient time may be granted to vacate the suit premises because the appellant is running his business in the suit shop since long and he will have to make alternative arrangement and wind up his business.

Looking to the totality of the facts, this Court deems that the appellant be granted one year's time to vacate the suit shop.

Therefore, it is ordered that in case, the appellant furnishes a written undertaking before the trial court within a period of two month from today that he shall hand over the vacant possession to the landlord by or before 30.4.2007 and shall not part with the possession or sublet the suit premises during this period and shall pay all the arrears of rent and decreetal amount, if due, within a period of two months from today before the trial court or directly to the landlord, the decree under challenge shall not be executed till 1.5.2007. The appellant shall also deposit the rent month by month by 15th day of each

succeeding month of his tenancy in the trial court.

In case of non-compliance of the order or default in payment of rent mentioned above, the decree shall become executable forthwith.

With the aforesaid concession, this appeal is dismissed.

(PRAKASH TATIA), J.

S.Phophaliya